

**Remark**

Applicant respectfully requests reconsideration of this application as amended. Claims 6 and 16 have been amended. No claims have been cancelled. Claims 21-24 are new and based on Claims 1, 2, 3, and 9 as described in the context of Figure 8B. Therefore, claims 1-24 are present for examination.

**35 U.S.C. §112 Rejection**

The Examiner has rejected claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 6 and 16 are rewritten in an effort to overcome the rejection. The intended scope of the claims has not been changed. If there remains any further objection to these claims, Applicant respectfully requests the Examiner to telephone the undersigned.

**35 U.S.C. §103 Rejection***Yoneyama in view of Adachi*

The Examiner has rejected claims 1, 5, 7, 9-11, 15, 19 and 20 under 35 U.S.C. §103 (a) as being unpatentable over Yoneyama et al. U.S. Patent No. 6,757,550 ("Yoneyama") in view of Adachi, Publication No. 2001/0022806 ("Adachi"). As the Examiner acknowledges, Yoneyama fails to teach or suggest any use of "load information associated with each of a plurality of base stations." Adachi fails to teach or suggest any use of "deriving received signal strength for each of the [base station] transmissions." Each system would appear to function perfectly well with only one of the approaches recited, for example, in claim 1.

Applicant submits that in the mobile cellular telephony environment of Yoneyama (PHS and PDC), since received signal strength varies greatly over time and because the base stations

overlap only very little, RSSI is a valuable tool for selecting a base station. Loading is not important because a channel, if assigned, has a dedicated amount of bandwidth and because channels are assigned under central control. On the other hand, in the radio LAN environment of Adachi there is no cellular base station plan. Base stations may be nearby or far away. Their coverage may overlap or there may be gaps. Adachi assumes that a terminal station may receive clear signals from more than one base station. Since mobility is low or absent in the radio LAN, RSSI is not important. A signal that is received well enough for understanding the probe response signal will continue to be well-received. Available capacity turns out to be a better way to select a base station especially in light of the contention access approach of Adachi.

As a result, there is no motivation in either reference to combine an RSSI measurement with load information to select a base station. The systems described in the references will not likely be improved by such a combination. The systems described in the references are very different in terms of the layout of base stations and the activity of the remote terminals. In addition, there is nothing in either reference to suggest such a combination. Accordingly, Applicant submits that Claim 1 is not obvious.

Rather than being obvious, Applicant submits that the invention of Claim 1 is quite inventive. While the Examiner has found many references which teach many different ways to select a base station, none of the references use more than one measure to select a base station. The combination of signal strength with a load indication is beyond anything in the cited references.

The remaining claims, not discussed above are believed to be allowable on the same grounds, among others. New Claims 21-24 are based on pending Claims 1, 2, 3, and 9 but presented as an apparatus. As the scope of the new claims is similar to that of the pending claims, no new issues are believed to be presented for further consideration or search.

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With respect to Claims 5-10, Applicant submits that the references do not teach or suggest how to combine a signal strength measurement with load information to select a base station. Claims 5-10 are directed to various aspects of making this combination. Accordingly, the references do not render Claims 5-10 obvious.

#### **Further 35 U.S.C. §103 Rejections**

The Examiner has rejected claims the remaining claims using various combinations of Yoneyama in view of a variety of other references. These references also fail to suggest a base station selection performed with a combination of received signal strength and load information as outlined in the claims and as discussed above.

### Conclusion

Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the claims as amended be allowed.

### Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### Request for an Extension of Time

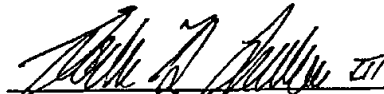
Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

### Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: November 22, 2004

  
Gordon R. Lindeen III  
Reg. No. 33,192

12400 Wilshire Boulevard  
7th Floor  
Los Angeles, California 90025-1026  
(303) 740-1980

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